REMARKS

Claims 1 - 20 are pending in the present application. Claims 1 – 15 and 18 – 20 have been rejected under 35 USC § 103(a). Claims 16 and 17 have been withdrawn from consideration due to an earlier restriction requirement.

Rejection Under 35 USC § 103(a) Over Bissett in view of Rourke

Claims 1 – 4, 6 – 9, 11 and 12 have been rejected under 35 USC § 103(a) as being unpatentable over Bissett, et al (US Patent No. 5,821,237) in view of Rourke, et al (US Patent No. 6,207,596). Applicants respectfully traverse this rejection because Rourke is not available as a reference against the present application under 35 USC § 103(c).

Rourke issued on March 27, 2001. The present application has a priority date of March 1, 2001. This means Rourke only qualifies as prior art under 35 USC § 102(e). Furthermore, the present application and Rourke were, at the time the claimed invention was made, owned by, or subject to an obligation of assignment to, The Procter & Gamble Company as evidenced by the acknowledgments made in the assignment documents which have been recorded in the United States Patent and Trademark Office. Rourke has an assignment recorded on December 7, 1998 at Reel 9623, Frame 0424 and the current application has an assignment recorded on July 28, 2003 at Reel 013832, Frame 0016.

Therefore, since the current application has a filing date after November 29, 1999 (the effective date of 35 USC § 103(c)), Rourke is not available as a reference under 35 USC § 103(c). Since the rejection of all of the claims depends on the combination of Bissett and Rourke, these rejections fail as Rourke is not available as a reference.

It is noted that PCT application (WO 00/27191) was published on May 18, 2000. This publication is cited in the accompanying IDS and contains a disclosure similar to that of the Rourke US patent (No. 6,207,596). The PCT application is available as a reference under 35 USC § 103. In the interest of advancing prosecution, the PCT application will be addressed assuming the reasoning of the Office Action concerning the US Rourke patent were applied to the PCT application. As such, the Office Action argues that Bissett discloses the claimed composition and a non-woven substrate. Rourke is used for the teaching that airlaid and hydroentangled are conventional methods of making a nonwoven substrate. The Office Action makes the argument that these two patents are combinable based on a desire to produce a non-woven substrate made from "conventional" techniques such as airlaid or hydroentangled for use as a disposable wet wipe. The analysis behind the rejection assumes that all conventional techniques for making

nonwoven substrates are acceptable and interchangeable alternatives for each other and that this would be appreciated by one of ordinary skill in the art. There is, however, no evidence of this. The current claims are combining a particular lotion with particular non-woven substrates to make a wipe that is cleansing and feels good on the skin. All of the elements of the claims must be considered as a whole. The arguments put forth by the Office do not consider the impact of the particular type of nonwoven substrate used on the impact of the cleansing and sensory aspects of the claimed wet wipe. The Office Action also does not show any motivation or desire to use the particularly claimed combination of lotion and substrate type other than an assertion that such substrate types were conventional. The mere fact that these techniques were available (i.e. **could** have been used) does not prove that one of ordinary skill in the art **would** have made this particular combination of lotion and substrate (i.e. would have recognized the desirability of doing so).

Rejection Under 35 USC § 103(a) over Bissett in view of Rourke in further view of Luu

Claims 4 and 10 have been rejected under 35 USC § 103(a) as unpatentable over Bissett, in view of Rourke, as applied to Claim 1, and further in view of Luu (US Patent No. 5,871,763). As stated above, Rourke is not a valid reference under 35 USC § 103 and thus this rejection is not proper.

Rejection Under 35 USC § 103(a) over Bissett in view of Rourke in further view of Brennan

Claims 13 – 15 and 18 – 20 have been rejected under 35 USC § 103(a) as unpatentable over Bissett, in view of Rourke, as applied to Claim 1, and further in view of Brennan (US 6,361,784). As stated above, Rourke is not a valid reference under 35 USC § 103 and thus this rejection is not proper.

Brennan issued on March 26, 2002. The present application has a priority date of March 1, 2001. This means Brennan only qualifies as prior art under 35 USC § 102(e). Furthermore, the present application and Brennan were, at the time the claimed invention was made, owned by, or subject to an obligation of assignment to, The Procter & Gamble Company as evidenced by the acknowledgments made in the assignment documents which have been recorded in the United States Patent and Trademark Office. Brennan has a recorded assignment on November 20, 2000 at Reel 011326, Frame 0918 and the current application has a recorded assignment on July 28, 2003 at Reel 013832, Frame 0016.

Therefore, since the current application has a filing date after November 29, 1999 (the effective date of 35 USC § 103(c)), Brennan is not available as a reference under 35 USC §

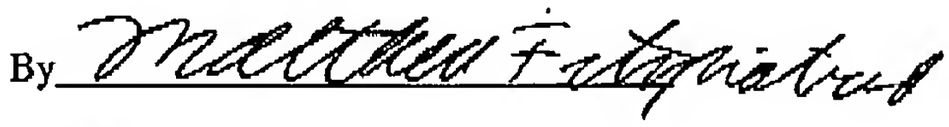
103(c). Since the rejection of the above claims depends on the combination of Bissett, Rourke, and Brennan, these rejections fail as Rourke and Brennan are not available as references.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 USC § 103(a). Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 – 15 and 18 – 20.

Respectfully submitted,

By 

Matthew Fitzpatrick
Registration No. 41,751
(513) 626-4287

August 13, 2004
Customer No. 27752